

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MYRIAM ZAYAS,

Plaintiff,

v.

BRIAN WALTON, SHEILA  
WILSON, JUDITH RAMSEYER.  
KELLY TAYLOR, BRITTANY  
RAMOS, SYLVIA HOWARD,

Defendants.

CASE NO. C22-18 MJP

ORDER ON MOTIONS TO  
DISMISS

This matter comes before the Court on Defendants Brian Walton, Kelly Taylor, Brittany Ramos, and Sylvia Howard's Motion to Dismiss (Dkt. No. 19) and Defendant Judith Ramseyer's Motion to Dismiss (Dkt. No. 22). Having reviewed the Motions, Plaintiff Myriam Zayas' Opposition (Dkt. No. 24), the Replies (Dkt. Nos. 25, 27), Plaintiff's Surreply (Dkt. No. 26), and Defendants' Request for Judicial Notice (Dkt. No. 21), the Court GRANTS the Motions to Dismiss and DISMISSES this action WITH PREJUDICE.

## BACKGROUND

Plaintiff's lawsuit relates to an ongoing dependency case that she is litigating in state court concerning her minor child, ACZ, and the termination of her parental rights. (Amended Complaint ¶¶ 13-41; see, e.g., Ex. 8 to the Declaration of Brendan Lenihan (Dkt. No. 20).) Plaintiff has sued several social workers (Defendants Walton, Wilson, Howard, Ramos, and Taylor), an assistant Attorney General (Defendant Taylor), and a Superior Court Judge (Judge Ramseyer) for what she alleges are violations of her federal civil rights in connection with the state court proceedings. She pursues claims for intentional infliction of emotional distress, retaliation for exercising her First Amendment rights, violations of her due process rights, and a "deprivation of rights under color of law" under 42 U.S.C. § 1983. Plaintiff has also filed a motion to amend her complaint again to add "substantive due process" and a "right to have and raise a family without government interference" claims. (Dkt. No. 12.) Plaintiff seeks "declaratory and injunctive relief to end Child Protective Services['] discriminatory practices, and their continued widespread custom [and] policy of forcing kindergarteners into Christianity, and compensatory and punitive damages." (Am. Compl. ¶ 5 (emphasis omitted); see also id. ¶¶ 11-12 (seeking injunctive relief).) Plaintiff specifically demands "\$500 million in punitive damages." (Id. ¶ 81.)

Plaintiff's Amended Complaint and the judicially noticeable record suggest that the Washington Department of Children, Youth and Families ("DCYF") removed ACZ from Plaintiff's custody in March 2020 under a court order based on concerns that Plaintiff was struggling with substance abuse. (Am. Compl. ¶¶ 23-24; see Declaration of Brendan Lenihan Exs. 1-9 (Dkt. No. 20).) Plaintiff alleges that Defendants Howard, Ramos, and Judge Ramseyer have forced ACZ to attend a Christian school against Plaintiff's wishes. (Am. Compl. ¶ 18; see

also id. ¶¶ 18-23, 25.) Plaintiff also alleges that Defendants Taylor, Ramos, Howard, and Judge Ramseyer either committed fraud or knowingly accepted fraudulent testimony in connection with the dependency action involving ACZ. (See id. ¶¶ 26-33, 35, 39.) Plaintiff also alleges that Judge Ramseyer wrongfully terminated her parental rights by accepting falsified testimony. (Id. ¶¶ 26-33.) Plaintiff further alleges that Defendants Ramos and Howard have violated her First Amendment rights by forbidding her from discussing the “current dependency case” during visits with ACZ. (See id. ¶¶ 34, 36.) And Plaintiff asserts claims against Defendants Wilson and Walton that relate exclusively to conduct that occurred in 2014. (See Amended Complaint ¶¶ 13-16.)

The dependency action about which Plaintiff’s complains remains ongoing, as is evident in the Amended Complaint and Plaintiff’s own admission that “[n]o final judgment has been made in Plaintiffs[’] state case.” (Pl. Opp. at 6 (Dkt. No. 24); see Am. Compl. ¶¶ 18-23, 25.) The Court is also aware that Plaintiff has filed two other civil rights cases before this Court regarding the same state court proceedings that have been dismissed with prejudice. See Zayas v. Dep’t of Children Youth and Families, et al., C20-981 JLR, Dkt. No. 60, 62 (W.D. Wash.); Zayas v. Nguyen et al., C21-746 JCC, Dkt. No. 29 (W.D. Wash.).

## ANALYSIS

### A. Legal Standard

Defendants’ motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(1) tests whether the Court has subject matter jurisdiction over the claims. Dismissal under Rule 12(b)(1) is proper if the Court lacks subject matter jurisdiction to adjudicate claims asserted in a plaintiff’s amended complaint. The Court’s analysis begins with the proposition that the party asserting jurisdiction bears the burden of establishing subject matter jurisdiction. Ass’n of Am. Med. Coll.

1 v. United States, 217 F.3d 770, 778–79 (9th Cir. 2000). Here, Defendants challenge jurisdiction  
2 based on information in the amended complaint and materials submitted in a request for judicial  
3 notice. Given the nature of the challenge, the Court considers the allegations in the amended  
4 complaint and judicially noticeable facts, which here include the orders from the dependency  
5 action. See Safe Air For Everyone v. Meyer, 373 F.3d 1035, 1039 (9th Cir. 2004) (court may  
6 consider evidence beyond the complaint in deciding factual attack under Rule 12(b)(1)). The  
7 Court accepts allegations in the amended complaint as true, and draws all reasonable inferences  
8 in the plaintiff’s favor. See Mir v. Little Co. of Mary Hosp., 844 F.2d 646, 649 (9th Cir. 1988).  
9 And because Plaintiff appears pro se, the Court holds her complaint “to less stringent standards  
10 than formal pleadings drafted by lawyers.” Haines v. Kerner, 404 U.S. 519, 520 (1972).

11 Defendants’ Motion to Dismiss pursuant Federal Rule of Civil Procedure 12(b)(6) tests  
12 whether Plaintiff’s amended complaint “contain[s] sufficient factual matter, accepted as true, to  
13 ‘state a claim to relief that is plausible on its face.’” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)  
14 (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)). In considering the motion, the  
15 Court draws reasonable inferences for the nonmoving party (here, the Plaintiff), but notes that  
16 any reliance on “‘labels and conclusions’ or ‘a formulaic recitation of the elements of a cause of  
17 action will not’” satisfy Plaintiff’s burden. Id. (quoting Twombly, 550 U.S. at 555). Along with  
18 the complaint, the Court may consider documents mentioned in the amended complaint that are  
19 central to the claims and of undisputed authenticity. See Marder v. Lopez, 450 F.3d 445, 448  
20 (9th Cir. 2006). The Court may also consider materials subject to judicial notice, such as public  
21 records and court documents. See Lee v. City of Los Angeles, 250 F.3d 668, 690 (9th Cir. 2001);  
22 see also Fed. R. Evid. 201.

1 **B. Younger Abstention**

2 Defendants urge the Court not to exercise jurisdiction in this case under the Younger  
3 abstention doctrine. (Dkt. Nos. 24 at 8–11, 25 at 10–12.) Having considered the arguments of the  
4 parties, the Court finds dismissal under Younger appropriate.

5 Under Younger v. Harris, 401 U.S. 37 (1971), federal courts must not interfere with  
6 pending state court litigation that implicates “important state interests.” Potrero Hills Landfill,  
7 Inc. v. County of Solano, 657 F.3d 876, 881 (9th Cir. 2011). Younger abstention is required if  
8 the state proceedings (1) are ongoing, (2) implicate “important state interests,” (3) provide an  
9 adequate opportunity to raise federal questions, and (4) if federal adjudication would enjoin or  
10 have the practical effect of enjoining the state proceeding. Logan v. U.S. Nat’l Bank Ass’n, 722  
11 F.3d 1163, 1167 (9th Cir. 2013).

12 All of the Younger considerations are satisfied here. First, the dependency action out of  
13 which the claims arise remains ongoing, as Plaintiff pleads and concedes. (See, e.g., Am. Compl.  
14 ¶¶ 18-23; Pl. Opp. at 6 (Dkt. No. 24).) Second, the dependency action is a quasi-criminal  
15 enforcement action that implicates important state interests. See Negrete v. Los Angeles Cty. et  
16 al., No. 220CV11124JGBMAA, 2021 WL 2551595, at \*2 (C.D. Cal. June 22, 2021) (citing  
17 Moore v. Sims, 442 U.S. 415, 423 (1977) (affirming Younger dismissal of claims related to  
18 ongoing juvenile proceedings in state court)); accord Safouane v. Fleck, 226 F. App’x 753, 758–  
19 59 (9th Cir. 2007). Courts also recognize that child custody proceedings in state court afford  
20 sufficient opportunity to raise federal claims. H.C. ex rel. Gordon v. Koppel, 203 F.3d 610, 613  
21 (9th Cir. 2000). Third, Plaintiff has an adequate means of raising the concerns about the  
22 education of ACZ and her rights in interacting with ACZ through the dependency action. Fourth,  
23 the injunctive, declaratory and substantial monetary relief Plaintiff seeks would have the  
24

1 practical effect of enjoining the state court proceedings. The Court therefore DISMISSES WITH  
2 PREJUDICE Plaintiff's claims under the Younger doctrine.

3 **C. Rooker-Feldman Doctrine**

4 The Court also finds that the Rooker-Feldman doctrine provides an addition bar to  
5 Plaintiff's claims.

6 "Rooker-Feldman is a powerful doctrine that prevents federal courts from second  
7 guessing state court decisions by barring the lower court from hearing de facto appeals from state  
8 court judgments." Bianchi v. Rylaarsdam, 334 F.3d 895, 898 (9th Cir. 2003). Named after a pair  
9 of Supreme Court cases, Rooker-Feldman bars federal lawsuits seeking to overturn state  
10 judgments, because, by federal statute, only the Supreme Court has jurisdiction to review state  
11 court decisions. See Carmona v. Carmona, 603 F.3d 1041, 1050 (9th Cir. 2010). But the Rooker-  
12 Feldman doctrine does not apply if the plaintiff asserts as a legal wrong an allegedly illegal act or  
13 omission by an adverse party in state court. Id.

14 Rooker-Feldman serves as an additional bar to Plaintiff's claims to the extent that they  
15 arise out of any of state litigation that is final. To the extent that Plaintiff is challenging the  
16 termination of her parental rights and that decision is final, then she is seeking a de facto appeal  
17 of the sort that Rooker-Feldman forbids. (See Am. Compl. ¶¶ 5, 7–12; 62–81.) And to the extent  
18 that Plaintiff is seeking to reverse various final decisions in the dependency action, those, too, are  
19 barred by Rooker-Feldman. Nor has Plaintiff presented any plausible allegations that Defendants  
20 have engaged in any illegal acts or omissions that might allow her claims to escape the doctrine.  
21 See, e.g., Twombly, 550 U.S. at 555–56. So to the extent that any of Plaintiff's claims arise out  
22 of state litigation that has reached a final decision, the Court DISMISSES them WITH  
23 PREJUDICE under Rooker-Feldman.

**D. Immunity**

Even if the Court exercised jurisdiction, it finds that all of Plaintiff's claims against Judge Ramseyer and Defendants Ramos, Taylor, and Howard are barred by various immunities.

**1. Judicial Immunity**

"Judges are absolutely immune from damages actions for judicial acts taken within the jurisdiction of their courts." Schucker v. Rockwood, 846 F.2d 1202, 1204 (9th Cir. 1988) (per curiam) (citation omitted). "A judge loses absolute immunity only when he acts in the clear absence of all jurisdiction or performs an act that is not judicial in nature." Id. (citation omitted). And "[j]udicial immunity applies 'however erroneous the act may have been, and however injurious in its consequences it may have proved to the plaintiff.'" Ashelman v. Pope, 793 F.2d 1072, 1075 (9th Cir. 1986) (quoting Cleavinger v. Saxner, 474 U.S. 193, 199 (1985)).

Here, Plaintiff seeks injunctive, declaratory, and monetary relief from Judge Ramseyer for judicial acts taken within her jurisdiction as a Superior Court Judge presiding over the state dependency action. Although Plaintiff asserts that Judge Ramseyer lacked jurisdiction to terminate her parental rights, Plaintiff offers no competent allegations to support that bare legal conclusion. The Court finds that the claims fail to show that Judge Ramseyer acted in a non-judicial capacity or that she lacked jurisdiction in undertaking any of the alleged acts. As such, in addition to dismissal under Younger and Rooker-Feldman, the Court DISMISSES WITH PREJUDICE the claims against Judge Ramseyer given her judicial immunity.

**2. Prosecutorial Immunity**

A prosecutor is entitled to absolute immunity for acts taken "in preparing for the initiation of judicial proceedings or for trial, and which occur in his role as an advocate for the State." Kalina v. Fletcher, 522 U.S. 118, 126 (1997). An assistant attorney general acting as legal

counsel for the Department of Children, Youth and Families in child dependency proceedings performs quasiprocutorial functions and is entitled to immunity for actions in connection with initiating and pursuing child dependency proceedings. Ernst v. Child & Youth Servs. Of Chester Cnty., 108 F.3d 486, 504 (3d Cir. 1997) (holding that an attorney representing a state child services agency is “entitled to absolute immunity for all of [the attorney's] quasi prosecutorial activities while representing [the agency] in connection with [a child's] dependency proceedings[.]”). And when social workers perform functions related to child dependency proceedings, they are protected by absolute quasi-prosecutorial immunity: Meyers v. Contra Costa Cty. Dep't of Soc. Servs., 812 F.2d 1154, 1156 (9th Cir. 1987); see also Caldwell v. LeFaver, 928 F.2d 331, 333 (9th Cir. 1991) (holding that a social worker is entitled to quasi-prosecutorial immunity when contributing as an advocate in child dependency proceedings).

Here, all of Plaintiff's claims against Defendants Ramos, Taylor, and Howard are barred by prosecutorial immunity. Plaintiff's claims against Defendant Taylor relate to her conduct as an Assistant Attorney General in the dependency proceedings. And Plaintiff's claims against Defendants Ramos and Howard relate to their function as social workers in the dependency proceedings. All of these claims are barred by prosecutorial immunity. In addition to dismissal under Younger and Rooker-Feldman, the Court DISMISSES WITH PREJUDICE the claims against Defendants Taylor, Ramos, and Howard given their prosecutorial immunity.

#### **E. Untimely Claims against Walton and Wilson**

The Court finds that the claims against Walton and Wilson are time-barred and must be dismissed.

All of Plaintiff's claims are subject to a three-year statute of limitations. First, while 42 U.S.C. § 1983 contains no statute of limitations, the Court looks to the limitations period for an



1 analogous state cause of action. See Cty. Of Oneida v. Oneida Indian Nation of N.Y. State, 470  
 2 U.S. 226, 240 (1985). Here, the Court looks to the statute of limitations period for personal  
 3 injury cases, which in Washington is three years. Joshua v. Newell, 871 F.2d 884 (9th Cir. 1989)  
 4 (citing RCW 4.16.080(2)); Milligan v. Thompson, 90 Wn. App. 586, 591–92 (1998). Second, the  
 5 tort of intentional infliction of emotional distress also has a three-year statute of limitations. St.  
 6 Michelle v. Robinson, 52 Wn. App. 309, 314 (1988).

7 All of the claims that Plaintiff asserts against Defendants Walton and Wilson are barred  
 8 by the statute of limitations. As pleaded, all of the alleged conduct that Defendants Walton and  
 9 Wilson engaged in occurred in 2014. This is outside the limitations period. The Court finds that  
 10 all of the claims against Defendants Walton and Wilson must be dismissed as untimely and no  
 11 amendment can cure this defect. The Court DISMISSES these claims WITH PREJUDICE.

## 12 CONCLUSION

13 All of Plaintiff's claims are defective and cannot be saved by amendment. Her claims  
 14 related to the ongoing dependency action are barred by the Younger doctrine. To extent any  
 15 claims relate to final state actions, they are barred by the Rooker-Feldman doctrine. Plaintiff's  
 16 claims against Defendants Ramseyer, Ramos, Taylor, and Howard are barred by judicial or  
 17 prosecutorial immunity. And the claims against Walton and Wilson are time barred. No set of  
 18 amendments can cure these defects. Plaintiff's Motion to Amend is therefore DENIED as  
 19 MOOT. And the Court DISMISSES this action WITH PREJUDICE.

20 The clerk is ordered to provide copies of this order to Plaintiff and all counsel.

21 Dated May 10, 2022.

22 

23 Marsha J. Pechman  
 24 United States Senior District Judge